

General Assembly

Raised Bill No. 1064

January Session, 2015

LCO No. 4674



Referred to Committee on JUDICIARY

Introduced by: (JUD)

AN ACT CONCERNING THE PALLIATIVE USE OF MARIJUANA.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. Section 21a-408 of the general statutes is repealed and the
- 2 following is substituted in lieu thereof (*Effective October 1, 2015*):
- As used in [sections 21a-408] this section, sections 21a-408a to 21a-
- 4 4080, inclusive, as amended by this act, and sections 9 to 13, inclusive,
- 5 of this act, unless the context otherwise requires:
- 6 (1) "Cultivation" includes planting, propagating, cultivating, 7 growing and harvesting;
- 8 (2) "Debilitating medical condition" means (A) cancer, glaucoma,
- 9 positive status for human immunodeficiency virus or acquired
- 10 immune deficiency syndrome, Parkinson's disease, multiple sclerosis,
- 11 damage to the nervous tissue of the spinal cord with objective
- 12 neurological indication of intractable spasticity, epilepsy, cachexia,
- 13 wasting syndrome, Crohn's disease, posttraumatic stress disorder, or
- 14 (B) any medical condition, medical treatment or disease approved by

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- 15 the Department of Consumer Protection pursuant to regulations
- 16 adopted under section 21a-408m;
- 17 (3) "Institutional animal care and use committee" means a
- 18 committee that oversees an organization's animal program, facilities
- 19 and procedures to ensure compliance with federal policies, guidelines
- 20 <u>and principles related to the care and use of animals in research;</u>
- 21 (4) "Institutional review board" means a specifically constituted
- 22 review body established or designated by an organization to protect
- 23 the rights and welfare of persons recruited to participate in biomedical,
- 24 behavioral or social science research;
- 25 (5) "Laboratory" means a laboratory located in this state that is
- 26 <u>licensed to provide analysis of controlled substances pursuant to</u>
- 27 <u>section 21a-246;</u>
- 28 <u>(6) "Laboratory employee" means a person licensed as a laboratory</u>
- 29 employee pursuant to section 9 of this act;
- 30 [(3)] (7) "Licensed dispensary" or "dispensary" means a person
- 31 licensed as a dispensary pursuant to section 21a-408h;
- 32 [(4)] (8) "Licensed producer" or "producer" means a person licensed
- as a producer pursuant to section 21a-408i;
- 34 [(5)] (9) "Marijuana" means marijuana, as defined in section 21a-240;
- 35 (10) "Nurse" means a person who is licensed under chapter 378;
- [(6)] (11) "Palliative use" means the acquisition, distribution,
- 37 transfer, possession, use or transportation of marijuana or
- 38 paraphernalia relating to marijuana, including the transfer of
- 39 marijuana and paraphernalia relating to marijuana from the patient's
- 40 primary caregiver to the qualifying patient, to alleviate a qualifying
- 41 patient's symptoms of a debilitating medical condition or the effects of
- 42 such symptoms, but does not include any such use of marijuana by

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any person other than the qualifying patient;

- 44 [(7)] (12) "Paraphernalia" means drug paraphernalia, as defined in section 21a-240;
- [(8)] (13) "Physician" means a person who is licensed under chapter 370, but does not include a physician assistant, as defined in section 20-12a;
 - [(9)] (14) "Primary caregiver" means a person, other than the qualifying patient and the qualifying patient's physician, who is eighteen years of age or older and has agreed to undertake responsibility for managing the well-being of the qualifying patient with respect to the palliative use of marijuana, provided (A) in the case of a qualifying patient under eighteen years of age or otherwise lacking legal capacity, such person shall be a parent, guardian or person having legal custody of such qualifying patient, and (B) in the case of a qualifying patient eighteen years of age or older lacking legal capacity, the need for such person shall be evaluated by the qualifying patient's physician and such need shall be documented in the written certification;
 - [(10)] (15) "Qualifying patient" means a person who: [is eighteen years of age or older, is] (A) Is a resident of Connecticut, [and] (B) has been diagnosed by a physician as having a debilitating medical condition, and (C) (i) is eighteen years of age or older, or (ii) has written consent from a custodial parent, guardian or other person having legal custody of the qualifying patient that indicates that the qualifying patient has permission from such parent, guardian or other person for the palliative use of marijuana and that such parent, guardian or other person shall serve as a primary caregiver for the qualifying patient and controls the acquisition and possession of marijuana for palliative use and any related paraphernalia on behalf of the qualifying patient. "Qualifying patient" does not include an inmate confined in a correctional institution or facility under the supervision

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- 74 of the Department of Correction;
- 75 (16) "Research program" means a study approved by the
- 76 Department of Consumer Protection in accordance with this chapter
- and undertaken to increase information or knowledge with regard to
- 78 the growth, processing, medical attributes, dosage forms,
- 79 administration or use of marijuana to treat or alleviate symptoms of
- 80 any medical condition or the effects of such symptoms;
- 81 (17) "Research program employee" means a person licensed as a
- 82 research program employee pursuant to section 11 of this act;
- 83 (18) "Research program subject" means a person registered as a
- 84 research program subject pursuant to section 13 of this act;
- [(11)] (19) "Usable marijuana" means the dried leaves and flowers of
- 86 the marijuana plant, and any mixtures or preparations of such leaves
- 87 and flowers, that are appropriate for the palliative use of marijuana,
- but does not include the seeds, stalks and roots of the marijuana plant;
- 89 and
- 90 [(12)] (20) "Written certification" means a written certification issued
- by a physician pursuant to section 21a-408c, as amended by this act.
- 92 Sec. 2. Subsection (b) of section 21a-408a of the general statutes is
- 93 repealed and the following is substituted in lieu thereof (Effective
- 94 *October 1, 2015*):
- 95 (b) The provisions of subsection (a) of this section do not apply to:
- 96 (1) Any palliative use of marijuana that endangers the health or
- 97 well-being of a person other than the qualifying patient or the primary
- 98 caregiver; or
- 99 (2) The ingestion of marijuana (A) in a motor bus or a school bus or
- in any other moving vehicle, (B) in the workplace, (C) on any school
- 101 grounds or any public or private school, dormitory, college or

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university property, <u>unless such college or university is participating in a research program and such use is pursuant to the terms of the research program,</u> (D) in any public place, or (E) in the presence of a person under the age of eighteen, <u>unless such person is a qualifying patient or research program subject</u>. For the purposes of this subdivision, (i) "presence" means within the direct line of sight of the palliative use of marijuana or exposure to second-hand marijuana smoke, or both; (ii) "public place" means any area that is used or held out for use by the public whether owned or operated by public or private interests; (iii) "vehicle" means a vehicle, as defined in section 14-1; (iv) "motor bus" means a motor bus, as defined in section 14-1; and (v) "school bus" means a school bus, as defined in section 14-1.

- Sec. 3. Section 21a-408c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):
 - (a) A physician may issue a written certification to a qualifying patient that authorizes the palliative use of marijuana by the qualifying patient. Such written certification shall be in the form prescribed by the Department of Consumer Protection and shall include a statement signed and dated by the qualifying patient's physician stating that, in such physician's professional opinion, the qualifying patient has a debilitating medical condition and the potential benefits of the palliative use of marijuana would likely outweigh the health risks of such use to the qualifying patient.
 - (b) Any written certification for the palliative use of marijuana issued by a physician under subsection (a) of this section shall be valid for a period not to exceed one year from the date such written certification is signed and dated by the physician. Not later than ten calendar days after the expiration of such period, or at any time before the expiration of such period should the qualifying patient no longer wish to possess marijuana for palliative use, the qualifying patient or the primary caregiver shall destroy all usable marijuana possessed by the qualifying patient and the primary caregiver for palliative use.

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- (c) A physician shall not be subject to arrest or prosecution, penalized in any manner, including, but not limited to, being subject to any civil penalty, or denied any right or privilege, including, but not limited to, being subject to any disciplinary action by the Connecticut Medical Examining Board or other professional licensing board, for providing a written certification for the palliative use of marijuana under subdivision (1) of subsection (a) of section 21a-408a if:
 - (1) The physician has diagnosed the qualifying patient as having a debilitating medical condition;

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- (2) The physician has explained the potential risks and benefits of the palliative use of marijuana to the qualifying patient and, if the qualifying patient lacks legal capacity, to a parent, guardian or person having legal custody of the qualifying patient;
- 147 (3) The written certification issued by the physician is based upon 148 the physician's professional opinion after having completed a 149 medically reasonable assessment of the qualifying patient's medical 150 history and current medical condition made in the course of a bona 151 fide physician-patient relationship; and
 - (4) The physician has no financial interest in a dispensary licensed under section 21a-408h or a producer licensed under section 21a-408i.
- 154 (d) A nurse shall not be subject to arrest or prosecution, penalized in 155 any manner, including, but not limited to, being subject to any civil 156 penalty, or denied any right or privilege, including, but not limited to, 157 being subject to any disciplinary action by the Board of Examiners for 158 Nursing or other professional licensing board, for administering 159 marijuana to a qualifying patient or research program subject in a 160 hospital or health care facility licensed by the Department of Public 161 Health.
- Sec. 4. Section 21a-408d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

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(a) Each qualifying patient who is issued a written certification for the palliative use of marijuana under subdivision (1) of subsection (a) of section 21a-408a, and the primary caregiver of such qualifying patient, shall register with the Department of Consumer Protection. Such registration shall be effective from the date the Department of Consumer Protection issues a certificate of registration until the expiration of the written certification issued by the physician. The qualifying patient and the primary caregiver shall provide sufficient identifying information, as determined by the department, to establish the personal identity of the qualifying patient and the primary caregiver. If the qualifying patient is under eighteen years of age, the custodial parent, guardian or other person having legal custody of the qualifying patient shall also provide a letter from both the qualifying patient's pediatrician and a physician who is board certified in an area of medicine involved in the treatment of the debilitating condition for which the qualifying patient was certified, confirming that the palliative use of marijuana is in the qualifying patient's best interest. The qualifying patient or the primary caregiver shall report any change in [such] the identifying information to the department not later than five business days after such change. The department shall issue a registration certificate to the qualifying patient and to the primary caregiver and may charge a reasonable fee, not to exceed twenty-five dollars, for each registration certificate issued under this subsection. Any registration fees collected by the department under this subsection shall be paid to the State Treasurer and credited to the account established pursuant to section 21a-408q, as amended by this act.

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(b) Information obtained under this section shall be confidential and shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200, except that reasonable access to registry information obtained under this section and temporary registration information obtained under section 21a-408n shall be provided to: (1) State agencies, federal agencies and local law

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enforcement agencies for the purpose of investigating or prosecuting a violation of law; (2) physicians and pharmacists for the purpose of providing patient care and drug therapy management and monitoring controlled substances obtained by the qualifying patient; (3) public or private entities for research or educational purposes, provided no individually identifiable health information may be disclosed; (4) a licensed dispensary for the purpose of complying with sections 21a-408 to 21a-408n, inclusive, as amended by this act; (5) a qualifying patient, but only with respect to information related to such qualifying patient or such qualifying patient's primary caregiver; or (6) a primary caregiver, but only with respect to information related to such primary caregiver's qualifying patient.

- Sec. 5. Section 21a-408j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):
- (a) No licensed dispensary or employee of the dispensary may: (1) Acquire marijuana from a person other than a licensed producer; (2) distribute or dispense marijuana to a person who is not (A) a qualifying patient registered under section 21a-408d, as amended by this act, or 21a-408n; [, or] (B) a primary caregiver of such qualifying patient; (C) a hospice or other inpatient care facility licensed by the Department of Public Health pursuant to chapter 368v that has a protocol for the handling and distribution of marijuana that has been approved by the Department of Consumer Protection; (D) a laboratory; or (E) an organization engaged in a research program; or (3) obtain or transport marijuana outside of this state in violation of state or federal law.
 - (b) No licensed dispensary or employee of the dispensary acting within the scope of his or her employment shall be subject to arrest or prosecution, penalized in any manner, including, but not limited to, being subject to any civil penalty, or denied any right or privilege, including, but not limited to, being subject to any disciplinary action by a professional licensing board, for acquiring, possessing,

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- 229 distributing or dispensing marijuana pursuant to sections 21a-408 to
- 230 21a-408n, as amended by this act, inclusive.
- Sec. 6. Section 21a-408k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):
- (a) No licensed producer or employee of the producer may: (1) Sell,
- deliver, transport or distribute marijuana to a person who is not (A) a
- 235 licensed dispensary, (B) a laboratory, or (C) an organization engaged in
- 236 <u>a research program</u>, or (2) obtain or transport marijuana outside of this
- 237 state in violation of state or federal law.
- 238 (b) No licensed producer or employee of the producer acting within
- 239 the scope of his or her employment shall be subject to arrest or
- 240 prosecution, penalized in any manner, including, but not limited to,
- 241 being subject to any civil penalty, or denied any right or privilege,
- 242 including, but not limited to, being subject to any disciplinary action
- by a professional licensing board, for cultivating marijuana or selling,
- 244 delivering, transporting or distributing marijuana to licensed
- 245 dispensaries under sections 21a-408 to 21a-408n, inclusive, as amended
- by this act.
- Sec. 7. Subsection (a) of section 21a-408l of the general statutes is
- 248 repealed and the following is substituted in lieu thereof (Effective
- 249 October 1, 2015):
- 250 (a) The Commissioner of Consumer Protection shall establish a
- 251 Board of Physicians consisting of eight physicians or surgeons who are
- 252 knowledgeable about the palliative use of marijuana. [and certified by
- 253 the appropriate American board in one of the following specialties:
- 254 Neurology, pain medicine, pain management, medical oncology,
- 255 psychiatry, infectious disease, family medicine or gynecology.] Four of
- 256 the members of the board first appointed shall serve for a term of three
- 257 years and four of the members of the board first appointed shall serve
- 258 for a term of four years. Thereafter, members of the board shall serve
- 259 for a term of four years and shall be eligible for reappointment. Any

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260 member of the board may serve until a successor is appointed. The

- 261 Commissioner of Consumer Protection shall serve as an ex-officio
- 262 member of the board, and shall select a chairperson from among the
- 263 members of the board.

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- Sec. 8. Section 21a-408q of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):
- 266 There is established a palliative marijuana administration account 267 which shall be a separate, nonlapsing account within the General 268 Fund. The account shall contain any fees collected pursuant to 269 subsection (a) of section 21a-408d, as amended by this act, any fees 270 collected pursuant to sections 21a-408h and 21a-408i, any fees collected 271 pursuant to subsection (b) of section 21a-408m, and any other moneys 272 required by law to be deposited in the account, and shall be held in 273 trust separate and apart from all other moneys, funds and accounts. 274 Any balance remaining in the account at the end of any fiscal year shall 275 be carried forward in the account for the fiscal year next succeeding. 276 Investment earnings credited to the account shall become part of the 277 account. Amounts in the account shall be expended only for the 278 purpose of providing funds to the Department of Consumer Protection 279 for administering the provisions of [sections 21a-408 to 21a-4080, 280 inclusive this chapter.
- Sec. 9. (NEW) (Effective October 1, 2015) (a) Except as provided in subsection (b) of this section, no person may act as a laboratory employee or represent that such person is a licensed laboratory employee unless such person has obtained a license from the Commissioner of Consumer Protection pursuant to this section.
 - (b) Prior to the effective date of regulations adopted under this section, the Commissioner of Consumer Protection may issue a temporary certificate of registration to a laboratory employee. The commissioner shall prescribe the standards, procedures and fees for obtaining a temporary certificate of registration as a laboratory

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- 292 (c) The Commissioner of Consumer Protection shall adopt regulations, in accordance with chapter 54 of the general statutes, to (1) 294 provide for the licensure of laboratories and laboratory employees; (2) 295 establish standards and procedures for the revocation, suspension, summary suspension and nonrenewal of laboratory and laboratory 297 employee licenses, provided such standards and procedures are 298 consistent with the provisions of subsection (c) of section 4-182 of the 299 general statutes; (3) establish a license and renewal fee for each 300 licensed laboratory and licensed laboratory employee, provided the aggregate amount of such license and renewal fees shall not be less 302 than the amount necessary to cover the direct and indirect cost of 303 licensing and regulating laboratories and laboratory employees in 304 accordance with the provisions of chapter 420f of the general statutes; 305 and (4) establish other licensing, renewal and operational standards 306 deemed necessary by the commissioner.
 - (d) Any fees collected by the Department of Consumer Protection under this section shall be paid to the State Treasurer and credited to the account established pursuant to section 21a-408q of the general statutes, as amended by this act.
- 311 Sec. 10. (NEW) (Effective October 1, 2015) (a) No laboratory employee 312 may: (1) Acquire marijuana from a person other than a licensed 313 producer, licensed dispensary or organization engaged in a research 314 program; (2) deliver, transport or distribute marijuana to: (A) A person 315 who is not a licensed dispensary; (B) a person who is not a licensed 316 producer; or (C) an organization not engaged in a research program; or 317 (3) obtain or transport marijuana outside of this state in violation of 318 state or federal law.
 - (b) No laboratory or laboratory employee acting within the scope of his or her employment shall be subject to arrest or prosecution, penalized in any manner, including, but not limited to, being subject to

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- any civil penalty, or denied any right or privilege, including, but not
- 323 limited to, being subject to any disciplinary action by a professional
- 324 licensing board, for acquiring, possessing, delivering, transporting or
- 325 distributing marijuana to a licensed dispensary, a licensed producer or
- 326 an organization engaged in an approved research program under the
- 327 provisions of chapter 420f of the general statutes.
- Sec. 11. (NEW) (Effective October 1, 2015) (a) The Commissioner of
- 329 Consumer Protection may approve a research program if such research
- 330 program (1) is to be administered or overseen by (A) a hospital or
- 331 health care facility licensed by the Connecticut Department of Public
- 332 Health pursuant to chapter 368v of the general statutes, (B) an
- institution of higher education, as defined in section 10a-55 of the
- general statutes, (C) a licensed producer, or (D) a licensed dispensary,
- and (2) will have institutional review board oversight and, if the
- 336 research program involves the use of animals, will have an
- institutional animal care and use committee.
- 338 (b) Except as provided in subsection (c) of this section, no person
- may act as a research program employee or represent that such person
- 340 is a licensed research program employee unless such person has
- 341 obtained a license from the Commissioner of Consumer Protection
- 342 pursuant to this section.
- 343 (c) Prior to the effective date of regulations adopted under this
- 344 section, the Commissioner of Consumer Protection may issue a
- 345 temporary certificate of registration to a research program employee.
- 346 The commissioner shall prescribe the standards, procedures and fees
- 347 for obtaining a temporary certificate of registration as a research
- 348 program employee.
- 349 (d) The Commissioner of Consumer Protection shall adopt
- regulations, in accordance with chapter 54 of the general statutes, to (1)
- 351 provide for the approval of research programs and licensure of
- research program employees, (2) establish standards and procedures

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353 for the termination or suspension of a research program, (3) establish 354 standards and procedures for the revocation, suspension, summary 355 suspension and nonrenewal of a research program employee license, 356 provided such standards and procedures are consistent with the 357 provisions of subsection (c) of section 4-182 of the general statutes, (4) 358 establish a (A) fee for research program review and approval, and (B) 359 license and renewal fee for each research program employee, provided 360 the aggregate amount of such fees shall not be less than the amount 361 necessary to cover the direct and indirect cost of approving research 362 programs and licensing and regulating research program employees 363 pursuant to the provisions of chapter 420 of the general statutes, and 364 (5) establish other licensing, renewal and operational standards 365 deemed necessary by the commissioner.

(e) Any fees collected by the Department of Consumer Protection under this section shall be paid to the State Treasurer and credited to the account established pursuant to section 21a-408q of the general statutes, as amended by this act.

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- Sec. 12. (NEW) (Effective October 1, 2015) (a) No research program or research program employee may: (1) Acquire marijuana from a person other than a licensed producer, licensed dispensary or laboratory; or (2) deliver, transport or distribute marijuana to a person who is not: (A) A licensed dispensary; (B) a licensed producer; or (C) a research program subject; (3) distribute or administer marijuana to an animal unless such animal is an animal research subject; or (4) obtain or transport marijuana outside of this state in violation of state or federal law.
 - (b) No research program employee acting within the scope of his or her employment shall be subject to arrest or prosecution, penalized in any manner, including, but not limited to, being subject to any civil penalty, or denied any right or privilege, including, but not limited to, being subject to any disciplinary action by a professional licensing board, for acquiring, possessing, delivering, transporting or

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distributing marijuana to a licensed dispensary, a licensed producer or a research program subject or distributing or administering marijuana to an animal research subject under the provisions of chapter 420f of the general statutes.

Sec. 13. (NEW) (*Effective October 1, 2015*) (a) Any person seeking to participate as a research program subject shall register with the Department of Consumer Protection prior to participating in an approved research program. The Commissioner of Consumer Protection shall prescribe the standards and procedures for obtaining a certificate of registration as a research program subject.

- (b) A research program subject who has a valid registration certificate from the Department of Consumer Protection and is acting within the scope of his or her involvement in an approved research program shall not be subject to arrest or prosecution, penalized in any manner, including, but not limited to, being subject to any civil penalty or denied any right or privilege, including, but not limited to, being subject to any disciplinary action by a professional licensing board, for the use of marijuana.
 - (c) The provisions of subsection (b) of this section do not apply to:
- (1) Any use of marijuana that endangers the health or well-being of a person other than the research program subject or a research program employee; or
- (2) The ingestion of marijuana (A) in a motor bus or a school bus or in any other moving vehicle, (B) in the workplace, (C) on any school grounds or any public or private school, dormitory, college or university property unless such the college of university is participating in a research program and such use is pursuant to the terms of the research program, (D) in any public place, or (E) in the presence of a person under eighteen years of age unless such person is a qualifying patient or research program subject. For purposes of this subdivision, (i) "presence" means within the direct line of sight of the

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palliative use of marijuana or exposure to second-hand marijuana smoke, or both; (ii) "public place" means any area that is used or held out for use by the public whether owned or operated by public or private interests; (iii) "vehicle" means a vehicle, as defined in section 14-1 of the general statutes; (iv) "motor bus" means a motor bus, as defined in section 14-1 of the general statutes; and (v) "school bus" means a school bus, as defined in section 14-1 of the general statutes.

(d) Information obtained under this section shall be confidential and shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200 of the general statutes, except that reasonable access to registry information obtained under this section shall be provided to: (1) State agencies, federal agencies and local law enforcement agencies for the purpose of investigating or prosecuting a violation of law; (2) physicians and pharmacists for the purpose of providing patient care and drug therapy management and monitoring controlled substances obtained by the research program subject; (3) public or private entities for research or educational purposes, provided no individually identifiable health information may be disclosed; (4) a licensed dispensary for the purpose of complying with sections 21a-408 to 21a-408n, inclusive, of the general statutes, as amended by this act; or (5) a research program subject, but only with respect to information related to such research program subject.

This act shall take effect as follows and shall amend the following			
sections:			
Section 1	October 1, 2015	21a-408	
Sec. 2	October 1, 2015	21a-408a(b)	
Sec. 3	October 1, 2015	21a-408c	
Sec. 4	October 1, 2015	21a-408d	
Sec. 5	October 1, 2015	21a-408j	
Sec. 6	October 1, 2015	21a-408k	
Sec. 7	October 1, 2015	21a-408l(a)	
Sec. 8	October 1, 2015	21a-408q	
Sec. 9	October 1, 2015	New section	

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Sec. 10	October 1, 2015	New section
Sec. 11	October 1, 2015	New section
Sec. 12	October 1, 2015	New section
Sec. 13	October 1, 2015	New section

Statement of Purpose:

To: (1) Provide for licensure of medical marijuana laboratories; (2) provide for the establishment and approval of medical marijuana research programs; (3) provide legal immunity to nurses who administer medical marijuana; (4) allow licensed producers and dispensary facilities to sell and transport medical marijuana to licensed laboratories and health care facilities; (5) expand the definition of "qualifying patient"; and (6) ease restrictions on the membership of the Board of Physicians.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

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